

**CITY OF UPLAND  
PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of April 10, 2023, by and between the City of Upland, a public agency organized and operating under the laws of the State of California with its principal place of business at 460 N. Euclid Avenue, Upland, CA 91786 ("City"), and Architerra, Inc., a California Corporation, with its principal place of business at 10221-A Trademark Street, Rancho Cucamonga, CA 91730 d/b/a Architerra Design Group (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

**RECITALS**

A. City is a public agency of the State of California and is in need of professional services for the following project:

Professional Architectural and Engineering Design Services for the Tom Thomas Magnolia Plaza Project (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

**AGREEMENT**

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

1. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit "A."

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B"

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of \$140,292.75. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

c. The City Manager may approve Additional Work, as further defined in Section 3, up to ten percent (10%) of the amount of the Agreement or fifty thousand dollars (\$50,000.00). In no event shall the total sum of the Agreement (original compensation amount and Additional Work) exceed \$190,292.75. Any additional work in excess of this amount shall be approved by the City Council.

3. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: A letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City.

5. Term of Performance.

The term of this Agreement shall be from **April 1, 2023** to **August 31, 2024**, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project. Consultant shall perform its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). The Notice to Proceed shall set forth the date of commencement of work.

Consultant shall prepare an estimated time schedule for the performance of Consultant's Services, to be adjusted as the Project proceeds. Such schedule shall be subject to the City's review and approval, which approval shall not be unreasonably withheld, and shall include allowances for periods of time required for City's review and approval of submissions, and for approvals of authorities having jurisdiction over Project approval and funding. The schedule shall not be exceeded by Designer without the prior written approval of City.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; pandemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state, and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Contractor

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

a. PERS Eligibility Indemnification

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In

addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Agreement
- (8) Property Damage
- (9) Independent Contractors Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give City, its officials, officers, employees, agents, and City designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give City, its officials, officers, employees, agents, and City designated volunteers additional insured status.

(iv) Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form specifically designed to protect against acts, errors, or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 combined single limit
Employer's Liability	\$1,000,000 per accident or disease
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location, and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide a waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A: VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary, and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the City nor any of its officials, officers, employees, agents, or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

### 13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility



to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

16. Termination or Abandonment

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

17. Documents.

Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to, and become the property of the City.

18. Organization

Consultant shall assign Robert Collins as the Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

19.. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Upland  
460 N. Euclid Avenue  
Upland, CA 91786  
Attn: Michael Blay  
City Manager

CONSULTANT:

Architerra Design Group  
10221-A Trademark Street  
Rancho Cucamonga, CA 91730  
Attn. Gregg Denson  
Title: Director of Design

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age, or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity, or illegality of any provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid, or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either Party unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. City's Right to Employ Other Consultants

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29.- Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

**[SIGNATURES ON FOLLOWING PAGE]**

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT  
BETWEEN CITY OF UPLAND  
AND ARCHITERRA DESIGN GROUP**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date hereby agreed upon.

CITY OF UPLAND

By: \_\_\_\_\_

Michael Blay  
City Manager

ARCHITERRA, INC. d/b/a ARCHITERRA DESIGN GROUP

By: \_\_\_\_\_

Its: President

Printed Name: RICHARD KRUMWIEDE

ATTEST:

By: \_\_\_\_\_

Keri Johnson  
City Clerk

ATTEST:

By: \_\_\_\_\_

Its: SECRETARY

Printed Name: RICHARD KRUMWIEDE

APPROVED AS TO LEGAL FORM:

By: \_\_\_\_\_

Stephen P. Deutsch  
Stephen Deutsch  
City Attorney

## EXHIBIT A

### Scope of Services

The selected Consultant, firm or team will perform the tasks listed below for this project. The selected Consultant, firm or team shall be expected to work closely with designated City personnel to accomplish these goals: The Consultant shall provide a comprehensive, turnkey scope of services from design process through construction closeout. It is recommended that the design Consultant, firm, or team have advanced skills in the design of park projects and construction management of high-quality open space and public infrastructure improvement projects. If different than the lead consultant, the construction management personnel shall have completed construction of at least three (3) public open space and public infrastructure improvement projects in the last five (5) years.

#### **A. Task 1 -Project Administration:**

1. Project Kick-Off meeting with Client to discuss the project goals and schedules.
2. Prepare project schedule with tasks and milestones and update schedule monthly during the duration of design to City approval.
3. Attend project meetings with city staff anticipate one meeting per month, 6 total.
4. Prepare meeting agendas and post meeting minutes for each meeting with City staff.
5. Provide telephone consultation and coordination with city and subconsultants.
6. Provide monthly project status reports summarizing tasks accomplished during the month and projected tasks to be completed the following month.
7. Submit monthly invoices for services rendered to date with descriptions of services rendered during billing period.

#### **B. Task 2A- Design Development Phase:**

1. Site visit for field verification of any outstanding conditions affecting project design base and design development.
2. Perform Geotechnical Engineering for project site to include geotechnical engineering borings, infiltration testing and final geotechnical report per GeoTek's proposal.
3. ADG's will provide coordination with Geotechnical Engineer sub-consultant GeoTek, Inc., and provide the final report to our Structural Engineer and to the City's Civil Engineer for their use and reference in completing their plans.
4. Coordinate with City's Civil Engineer any WQMP requirements for impact on approved design. WQMP plans by others, N.I.C.

5. CAD base sheet design development of approved conceptual design on City standard 24 inch by 36-inch sheets, 10 scale, two sheets total.
6. Prepare 50% 24" x 36" project Title Sheet with sheet index, site map signature blocks, etc., one sheet.
7. Prepare 50% site demolition plans identifying elements for removal, and elements to protect in place, two sheets.
8. Prepare 50% site construction plans with draft construction legend, basic materials, and layout, two sheets.
9. Prepare and coordinate "redlined" grading plan with finish surface elevations and drainage inlet locations for City's Civil Engineer' use in preparing final grading and drainage plan. Final grading and drainage plan by City's Civil Engineer (N.I.C.).
10. Design development (50% completion) of site details including paving, shade structures, masonry structures and site amenities.
11. Coordination with manufacturers of prefabricated site amenities for standard details.
12. Coordination with City for public art/wall mural at plaza space.
13. Prepare 50% irrigation plan with basic mainline layout, valve locations, irrigation valve zones and draft legend with proposed materials list. Plan to include preliminary water use calculations to verify compliance with the City's landscape water use restrictions.
14. Prepare 50% planting plan with basic shrub, tree and ground cover layout, and draft legend with proposed plant varieties.
15. Prepare 50% draft specifications package with specification sections outlined. 8 1/5" x 11" book format.
16. Provide design development estimate of anticipated construction costs.
17. Provide in-house quality control plan check review and corrections prior to 50% City review submittal.
18. Coordinate with ADG's Electrical Engineer sub-consultant JCA and provide 50% complete electrical engineering plans per JCA's proposal.
19. Coordinate with ADG's Structural Engineer sub-consultant RGSE and provide 50% complete structural engineering plans per RGSE proposal.

**C. Task 2B – 90-100% Construction Document Phase:**

1. Prepare final 24" x 36" project Title Sheet with sheet index, site map signature blocks, etc., one sheet.
2. Prepare final site demolition plan identifying elements for removal, and elements to protect in place, two sheets.
3. Prepare final site construction plan with horizontal layout of paving, masonry structures and site amenities, construction call-outs, and legend with materials and detail references, two sheets.
4. Provide final precise grading plan/WQMP/SWPPP coordination with City's Civil Engineer' and integrate final precise grading and drainage plans into project submittal package. Precise grading plan by City's Civil Engineer, N.I.C.
5. Final development and drafting of site details including paving, shade structures, raised stage area, seat walls, plaza entry structures, etc. as required by final design elements.
6. Coordination with manufacturers of prefabricated site amenities and insertion of standard installation details into final detail sheets.
7. Coordination with City for public art/wall mural at plaza space, addition of coordination notes to construction plan as needed.
8. Prepare final irrigation plans with point of connection, controller spec., mainline layout, valve locations, irrigation lateral lines and irrigation emission devices valve zones with notes, and materials legend with installation detail references. Plan to also identify irrigation water use hydrozones.
9. Prepare final irrigation water use calculations (MAWA & ETWU) and irrigation controller schedules as needed to verify compliance with the City's landscape water use restrictions.
10. Prepare Irrigation component installation details.
11. Prepare final planting plan with tree, shrub, and ground cover layout, with planting notes and legend indicating plant material botanic name, common names, installation sizes and installation detail references.
12. Prepare planting installation details for trees, shrubs, and groundcovers.
13. Prepare and assemble final specifications package for construction, irrigation, and planting improvements, 8 1/5" x 11" book format.
14. Provide final estimate of anticipated construction costs.
15. Provide in-house quality control plan check review and corrections prior to 90-100% City review submittal.

16. Coordinate with ADG's Electrical Engineer sub-consultant JCA and provide 100% complete electrical engineering plans & spec's. per JCA's proposal.
17. Coordinate with ADG's Structural Engineer sub-consultant RGSE and provide 100% complete structural engineering plans & spec's per RGSE proposal.

**D. Task 3 – Agency Processing/Plan Approvals**

1. Assemble and Submit 50% Design Development package/specifications.
2. Respond to City 50% plan check comments (integrate corrections/comments into final plans).
3. Assemble and Submit 90% & 100% Construction Document package/specifications.
4. Respond to City 90% & 100% plan check comments (anticipate 2-3 submittals for final approvals).

**E. Task 4A - Bidding Assistance Phase:**

1. Prepare Bid Form using City boilerplate template, with line items per plans, for City's use in advertising/bidding the project.
2. Final Bid Form Review.
3. Attend Pre-bid meeting. (1)
4. Answer Requests for Information (RFI's), and prepare addendums, as required.
5. Attend bid opening. (1)
6. Review and evaluate completed bid schedules with Client and make recommendations in awarding construction contract.
7. JCA will provide:
  - Responses to bidder's RFI's, and prepare addendums, as needed.
8. RGSE will provide:
  - Responses to bidder's RFI's, and prepare addendums, as needed.

**F. Task 4B - Construction Administration Phase:**

1. Attendance at Pre-Construction meeting. City to schedule and coordinate.



2. Request Contractors schedule for review and coordination. Contractor to provide updates to City and ADG.
3. Provide weekly construction observation site visits for the estimated six-month construction timeframe. Final inspection included. (24 visits total)
4. Preparation of weekly site review reports documenting site conditions and any deficiencies or plan deviations for submittal to Client for review, and contractor for correction. (24 reports total)
5. Review Contractor Submittals and Shop Drawings.
6. Provide responses to Requests for Information (RFI).
7. Nursery Visit/Tree Tagging. One visit total.
8. Review and evaluate contractors progress billing for quantity or percentage of completed work and supporting documentation and provide recommendations to City for approval or for withholding funds.
9. Review and evaluate Contractor's change order requests and provide recommendations to City for approval or rejection.
10. Prepare CAD irrigation As-Builts of irrigation system based on contractors redlined jobsite set.
11. Perform final irrigation water use audit.
12. Request from Contractor project close-out binders with all product information, operation manuals, warranties, as-builts, etc. as defined in final project specifications for review/approval and turn-over to City.
13. JCA will provide:
  - Provide site visit during construction for observation and documentation, as required.
14. RGSE will provide:
  - Provide site visit during construction for observation and documentation, as required.

## EXCLUSIONS

The following services/deliverables requested in the City's RFP that **are excluded from this scope of work** and are generally completed by the Clients Construction Manager, or by the contractor as directed by the final plans and specifications:

### Construction Management Services

- a. Prepare project construction schedule and provide updates.
- b. Perform site inspections on daily basis and prepare daily jobsite reports and submit to City's Project Manager. Daily jobsite reports shall include report number, date, weather, temperature, identification of subcontractors and number of workers, classification (foreman and apprentices) onsite, material and equipment deliveries, work activities performed (description, location, start/finish, quantities), schedule delays, extra work authorizations, accidents, inspections, meetings, other significant events and Construction Manager's signature.
- c. Perform quality assurance/quality control.
- d. Review and approve construction Contractor's construction schedule, using Critical Path and Work Breakdown method, monitor Contractor's progress, notify City of delays, make recommendations for notices to cure, demands for Contractor recovery schedules, evaluation of Contractor requests for time extensions, and City assessment of liquidated damages.
- e. Document Control RFIs, material submittals, daily photo documentation.
- f. Review, approve and monitor Contractor's Site Safety and Health Plan.
- g. Maintain a change order log. Prepare independent cost estimates and provide assistance during change order negotiations.
- h. Provide Binder of daily jobsite reports, including Quality Assurance/Quality Control.
- i. Log of notices to cure, demands for Contractor recovery schedules, evaluation of Contractor requests for time extensions, and City assessment of liquidated damages.
- j. Binders of RFIs, material submittals, daily photo documentation.
- k. Binder of weekly status reports.
- l. Log of progress payments and supporting documentation.
- m. Binder with all meeting minutes including weekly updates, safety, and agency update meetings.
- n. Binder with material Testing Results and Special Inspection Logs.

### Construction Material Testing:

- a. Deputy Inspection Services - Perform deputy inspection services during construction by a licensed firm as required per specifications and construction drawings.
- b. Special Inspection Services - Review specifications and perform material testing for items such as: soil compaction, concrete slurry, masonry, structural steel, footings rebar replacement, etc. and verify the results meet design requirements.

### Contract Close-Out:

Conduct a project closeout with Upland Staff and provide a written warranty at completion of the contract.

1. Deliver three, 3-ring binder construction closeout manuals upon completion of the project. Each close-out manual shall be index tabbed and include:
  - a. Contractor's information.
  - b. Product List including product name, product number, contact.
  - c. information and method of application for all materials used on the
  - d. project.
  - e. Warranty letters and spec sheets.

- f. Submittal Documents including manufacturer's instructions, field reports
  - g. and testing certificates.
  - h. Maintenance schedule and recommendations.
  - i. Full size signed and sealed, final As-Built Drawings.
  - j. Digital file of AutoCAD As-Built drawings.
2. Conduct educational training session regarding maintenance with Upland Staff.

## EXHIBIT B

### Schedule of Charges/Payments

TASK 1: Project Management / Meetings Phase	<b>\$11,410.00</b>
TASK 2A: Design Development Phase PS&E 50%	<b>\$51,330.25</b>
TASK 2B: Construction Document Phase PS&E 90% / 100%	<b>\$43,765.00</b>
TASK 3: Agency Processing / Plan Approvals	<b>\$7,575.00</b>
TASK 4A: Bidding Administration	<b>\$3,665.00</b>
TASK 4B: Construction Administration	<b>\$20,047.50</b>
Reimbursables	<b>\$2,500.00</b>
Grand Total	<b>\$140,292.75</b>

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.